

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 437**

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**Introduced by Assembly Member Atkins  
(Principal coauthor: Assembly Member Mullin)**

February 19, 2015

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An act to amend Sections 17052.12 and 23609 of, to add Sections 17131.8 and 24304 to, and to add and repeal Division 3 (commencing with Section 70000) of, the Revenue and Taxation Code, relating to small businesses, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 437, as amended, Atkins. Research and Development: Small Business Grant Program.

Existing law provides for several programs supporting small businesses, including the Office of Small Business Advocate, the director of which duties include, among other things, representing the views and interests of small businesses before other state agencies whose policies and activities may affect small businesses.

The Personal Income Tax Law imposes taxes on taxable income at specified rates based upon the amount of taxable income. The Corporation Tax Law imposes taxes upon, according to, or measured by, net income, as specified. The Personal Income Tax Law and the Corporation Tax Law, in modified conformity to a credit allowed under federal law, allow a credit against taxes imposed by those laws for increasing research expenses, as defined. Existing law allows a taxpayer

to carryover any excess amounts of that credit to succeeding taxable years, until the credit is exhausted.

This bill would, beginning January 1, 2016, and ending January 1, 2022, establish the Research and Development-Small Business Grant Program, which would provide qualified small businesses, as defined, grants in amounts equal to either 10% or 15% of any excess credit amount attributable to the small business for specified years under the credit described above. This bill would continuously appropriate moneys from the General Fund to award these grants, in specified amounts per calendar year, to be allocated by the Franchise Tax Board. This bill would specify that any grant money received by a qualified small business would be excluded from its income and would provide that any excess credit amount attributable by the qualified small business would be reduced by the amount allowed as a grant.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 17052.12 of the Revenue and Taxation  
2 Code is amended to read:  
3 17052.12. For each taxable year beginning on or after January  
4 1, 1987, there shall be allowed as a credit against the “net tax,” as  
5 defined by Section 17039, an amount determined in accordance  
6 with Section 41 of the Internal Revenue Code, relating to credit  
7 for increasing research activities, except as follows:  
8 (a) For each taxable year beginning before January 1, 1997, the  
9 reference to “20 percent” in Section 41(a)(1) of the Internal  
10 Revenue Code is modified to read “8 percent.”  
11 (b) (1) For each taxable year beginning on or after January 1,  
12 1997, and before January 1, 1999, the reference to “20 percent”  
13 in Section 41(a)(1) of the Internal Revenue Code is modified to  
14 read “11 percent.”  
15 (2) For each taxable year beginning on or after January 1, 1999,  
16 and before January 1, 2000, the reference to “20 percent” in Section  
17 41(a)(1) of the Internal Revenue Code is modified to read “12  
18 percent.”  
19 (3) For each taxable year beginning on or after January 1, 2000,  
20 the reference to “20 percent” in Section 41(a)(1) of the Internal  
21 Revenue Code is modified to read “15 percent.”

1 (c) Section 41(a)(2) of the Internal Revenue Code shall not  
2 apply.

3 (d) “Qualified research” shall include only research conducted  
4 in California.

5 (e) (1) In the case where the credit allowed by this section  
6 exceeds the “net tax,” the excess may be carried over to reduce  
7 the “net tax” in the following year, and succeeding years if  
8 necessary, until the credit has been exhausted.

9 (2) For taxable years beginning on or after January 1, 2016, in  
10 the case where the Franchise Tax Board has issued a certificate  
11 for a grant pursuant to Division 3 (commencing with Section  
12 70000) the following rules shall apply:

13 (A) The excess credit amount that may be carried over by a  
14 taxpayer shall be reduced by the amount reflected on the certificate.

15 (B) (i) In the case of a pass-thru entity, the amount of credit  
16 that may be passed through *to a partner or shareholder* shall be  
17 reduced by the amount reflected on the certificate.

18 (ii) For purposes of this subparagraph, “pass-thru entity” means  
19 a partnership or an “S” corporation.

20 (C) If any amount of a credit finally allowed is less than the  
21 amount of the credit that provided the basis for a grant pursuant  
22 to Division 3 (commencing with Section 70000), the amount of  
23 the grant attributable to the credit not allowed shall be treated as  
24 a deficiency pursuant to Section 19043, and assessed and collected  
25 pursuant to ~~Part 10.2~~ *10.2 (commencing with Section 18401)*.

26 (f) (1) With respect to any expense paid or incurred after the  
27 operative date of Section 6378, Section 41(b)(1) of the Internal  
28 Revenue Code, relating to qualified research expenses, is modified  
29 to exclude from the definition of “qualified research expense” any  
30 amount paid or incurred for tangible personal property that is  
31 eligible for the exemption from sales or use tax provided by Section  
32 6378.

33 (2) For each taxable year beginning on or after January 1, 1998,  
34 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the  
35 Internal Revenue Code, relating to amounts paid to certain research  
36 consortia, is modified to read “this part or Part 11 (commencing  
37 with Section 23001).”

38 (g) (1) For each taxable year beginning on or after January 1,  
39 2000:

1 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of  
2 the Internal Revenue Code is modified to read “one and forty-nine  
3 hundredths of one percent.”

4 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of  
5 the Internal Revenue Code is modified to read “one and  
6 ninety-eight hundredths of one percent.”

7 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of  
8 the Internal Revenue Code is modified to read “two and forty-eight  
9 hundredths of one percent.”

10 (2) Section 41(c)(4)(B) of the Internal Revenue Code, relating  
11 to election, shall not apply and in lieu thereof an election under  
12 Section 41(c)(4)(A) of the Internal Revenue Code, relating to in  
13 general, may be made for any taxable year of the taxpayer  
14 beginning on or after January 1, 1998. That election shall apply  
15 to the taxable year for which made and all succeeding taxable years  
16 unless revoked with the consent of the Franchise Tax Board.

17 (3) Section 41(c)(7) of the Internal Revenue Code, relating to  
18 gross receipts, is modified to take into account only those gross  
19 receipts from the sale of property held primarily for sale to  
20 customers in the ordinary course of the taxpayer’s trade or business  
21 that is delivered or shipped to a purchaser within this state,  
22 regardless of f.o.b. point or any other condition of the sale.

23 (4) Section 41(c)(5) of the Internal Revenue Code, relating to  
24 election of alternative simplified credit, shall not apply.

25 (h) Section 41(h) of the Internal Revenue Code, relating to  
26 termination, shall not apply.

27 (i) Section 41(g) of the Internal Revenue Code, relating to  
28 special rule for pass-thru of credit, is modified by each of the  
29 following:

30 (1) The last sentence shall not apply.

31 (2) If the amount determined under Section 41(a) of the Internal  
32 Revenue Code, relating to general rule, for any taxable year  
33 exceeds the limitation of Section 41(g) of the Internal Revenue  
34 Code, relating to special rule for pass-thru of credit, that amount  
35 may be carried over to other taxable years under the rules of  
36 subdivision (e); except that the limitation of Section 41(g) of the  
37 Internal Revenue Code, relating to special rule for pass-thru of  
38 credit, shall be taken into account in each subsequent taxable year.

39 (j) Section 41(a)(3) of the Internal Revenue Code shall not apply.

1 (k) Section 41(b)(3)(D) of the Internal Revenue Code, relating  
2 to amounts paid to eligible small businesses, universities, and  
3 Federal laboratories, shall not apply.

4 (l) Section 41(f)(6), of the Internal Revenue Code relating to  
5 energy research consortium, shall not apply.

6 SEC. 2. Section 17131.8 is added to the Revenue and Taxation  
7 Code, to read:

8 17131.8. For taxable years beginning on or after January 1,  
9 2016, and before January 1, 2025, gross income does not include  
10 any grant received by a taxpayer pursuant to Division 3  
11 (commencing with Section 70000).

12 SEC. 3. Section 23609 of the Revenue and Taxation Code is  
13 amended to read:

14 23609. For each taxable year beginning on or after January 1,  
15 1987, there shall be allowed as a credit against the “tax,” defined  
16 by Section 23036, an amount determined in accordance with  
17 Section 41 of the Internal Revenue Code, relating to credit for  
18 increasing research activities, except as follows:

19 (a) For each taxable year beginning before January 1, 1997,  
20 both of the following modifications shall apply:

21 (1) The reference to “20 percent” in Section 41(a)(1) of the  
22 Internal Revenue Code is modified to read “8 percent.”

23 (2) The reference to “20 percent” in Section 41(a)(2) of the  
24 Internal Revenue Code is modified to read “12 percent.”

25 (b) (1) For each taxable year beginning on or after January 1,  
26 1997, and before January 1, 1999, both of the following  
27 modifications shall apply:

28 (A) The reference to “20 percent” in Section 41(a)(1) of the  
29 Internal Revenue Code is modified to read “11 percent.”

30 (B) The reference to “20 percent” in Section 41(a)(2) of the  
31 Internal Revenue Code is modified to read “24 percent.”

32 (2) For each taxable year beginning on or after January 1, 1999,  
33 and before January 1, 2000, both of the following shall apply:

34 (A) The reference to “20 percent” in Section 41(a)(1) of the  
35 Internal Revenue Code is modified to read “12 percent.”

36 (B) The reference to “20 percent” in Section 41(a)(2) of the  
37 Internal Revenue Code is modified to read “24 percent.”

38 (3) For each taxable year beginning on or after January 1, 2000,  
39 both of the following shall apply:

1 (A) The reference to “20 percent” in Section 41(a)(1) of the  
2 Internal Revenue Code is modified to read “15 percent.”

3 (B) The reference to “20 percent” in Section 41(a)(2) of the  
4 Internal Revenue Code is modified to read “24 percent.”

5 (c) (1) With respect to any expense paid or incurred after the  
6 operative date of Section 6378, Section 41(b)(1) of the Internal  
7 Revenue Code, relating to qualified research expenses, is modified  
8 to exclude from the definition of “qualified research expense” any  
9 amount paid or incurred for tangible personal property that is  
10 eligible for the exemption from sales or use tax provided by Section  
11 6378.

12 (2) “Qualified research” and “basic research” shall include only  
13 research conducted in California.

14 (d) The provisions of Section 41(e)(7)(A) of the Internal  
15 Revenue Code, relating to basic research, shall be modified so that  
16 “basic research,” for purposes of this section, includes any basic  
17 or applied research including scientific inquiry or original  
18 investigation for the advancement of scientific or engineering  
19 knowledge or the improved effectiveness of commercial products,  
20 except that the term does not include any of the following:

21 (1) Basic research conducted outside California.

22 (2) Basic research in the social sciences, arts, or humanities.

23 (3) Basic research for the purpose of improving a commercial  
24 product if the improvements relate to style, taste, cosmetic, or  
25 seasonal design factors.

26 (4) Any expenditure paid or incurred for the purpose of  
27 ascertaining the existence, location, extent, or quality of any deposit  
28 of ore or other mineral (including oil and gas).

29 (e) (1) In the case of a taxpayer engaged in any  
30 biopharmaceutical research activities that are described in codes  
31 2833 to 2836, inclusive, or any research activities that are described  
32 in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard  
33 Industrial Classification (SIC) Manual published by the United  
34 States Office of Management and Budget, 1987 edition, or any  
35 other biotechnology research and development activities, the  
36 provisions of Section 41(e)(6) of the Internal Revenue Code,  
37 relating to qualified organization, shall be modified to include both  
38 of the following:

39 (A) A qualified organization as described in Section  
40 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an

1 institution of higher education as described in Section 3304(f) of  
2 the Internal Revenue Code, relating to definition of institution of  
3 higher education.

4 (B) A charitable research hospital owned by an organization  
5 that is described in Section 501(c)(3) of the Internal Revenue Code,  
6 is exempt from taxation under Section 501(a) of the Internal  
7 Revenue Code, relating to exempt from taxation, is not a private  
8 foundation, is designated a “specialized laboratory cancer center,”  
9 and has received Clinical Cancer Research Center status from the  
10 National Cancer Institute.

11 (2) For purposes of this subdivision:

12 (A) “Biopharmaceutical research activities” means those  
13 activities that use organisms or materials derived from organisms,  
14 and their cellular, subcellular, or molecular components, in order  
15 to provide pharmaceutical products for human or animal  
16 therapeutics and diagnostics. Biopharmaceutical activities make  
17 use of living organisms to make commercial products, as opposed  
18 to pharmaceutical activities that make use of chemical compounds  
19 to produce commercial products.

20 (B) “Other biotechnology research and development activities”  
21 means research and development activities consisting of the  
22 application of recombinant DNA technology to produce  
23 commercial products, as well as research and development  
24 activities regarding pharmaceutical delivery systems designed to  
25 provide a measure of control over the rate, duration, and site of  
26 pharmaceutical delivery.

27 (f) (1) In the case where the credit allowed by this section  
28 exceeds the “tax,” the excess may be carried over to reduce the  
29 “tax” in the following year, and succeeding years if necessary,  
30 until the credit has been exhausted.

31 (2) For taxable years beginning on or after January 1, 2016, in  
32 the case where the Franchise Tax Board has issued a certificate  
33 for a grant pursuant to Division 3 (commencing with Section  
34 70000) the following rules shall apply:

35 (A) The excess credit amount that may be carried over by a  
36 taxpayer shall be reduced by the amount reflected on the certificate.

37 (B) (i) In the case of a pass-thru entity, the amount of credit  
38 that may be passed through to a partner, taxable under this part,  
39 shall be reduced by the amount reflected on the certificate.

1 (ii) For purposes of this subparagraph, “pass-thru entity” means  
2 a partnership.

3 (C) If any amount of a credit finally allowed is less than the  
4 amount of the credit that provided the basis for a grant pursuant  
5 to Division 3 (commencing with Section 70000), the amount of  
6 the grant attributable to the credit not allowed shall be treated as  
7 a deficiency pursuant to Section 19043, and assessed and collected  
8 pursuant to ~~Part 10.2~~ *10.2 (commencing with Section 18401)*.

9 (g) For each taxable year beginning on or after January 1, 1998,  
10 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the  
11 Internal Revenue Code, relating to amounts paid to certain research  
12 consortia, is modified to read “this part or Part 10 (commencing  
13 with Section 17001).”

14 (h) (1) For each taxable year beginning on or after January 1,  
15 2000:

16 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of  
17 the Internal Revenue Code is modified to read “one and forty-nine  
18 hundredths of one percent.”

19 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of  
20 the Internal Revenue Code is modified to read “one and  
21 ninety-eight hundredths of one percent.”

22 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of  
23 the Internal Revenue Code is modified to read “two and forty-eight  
24 hundredths of one percent.”

25 (2) Section 41(c)(4)(B) of the Internal Revenue Code, relating  
26 to election, shall not apply and in lieu thereof an election under  
27 Section 41(c)(4)(A) of the Internal Revenue Code, relating to in  
28 general, may be made for any taxable year of the taxpayer  
29 beginning on or after January 1, 1998. That election shall apply  
30 to the taxable year for which made and all succeeding taxable years  
31 unless revoked with the consent of the Franchise Tax Board.

32 (3) Section 41(c)(7) of the Internal Revenue Code, relating to  
33 gross receipts, is modified to take into account only those gross  
34 receipts from the sale of property held primarily for sale to  
35 customers in the ordinary course of the taxpayer’s trade or business  
36 that is delivered or shipped to a purchaser within this state,  
37 regardless of f.o.b. point or any other condition of the sale.

38 (4) Section 41(c)(5) of the Internal Revenue Code, relating to  
39 election of alternative simplified credit, shall not apply.

1 (i) Section 41(h) of the Internal Revenue Code, relating to  
2 termination, shall not apply.

3 (j) Section 41(g) of the Internal Revenue Code, relating to  
4 special rule for pass-thru of credit, is modified by each of the  
5 following:

6 (1) The last sentence shall not apply.

7 (2) If the amount determined under Section 41(a) of the Internal  
8 Revenue Code, relating to general rule, for any taxable year  
9 exceeds the limitation of Section 41(g) of the Internal Revenue  
10 Code, relating to special rule for pass-thru of credit, that amount  
11 may be carried over to other taxable years under the rules of  
12 subdivision (f), except that the limitation of Section 41(g) of the  
13 Internal Revenue Code, relating to special rule for pass-thru of  
14 credit, shall be taken into account in each subsequent taxable year.

15 (k) Section 41(a)(3) of the Internal Revenue Code shall not  
16 apply.

17 (l) Section 41(b)(3)(D) of the Internal Revenue Code, relating  
18 to amounts paid to eligible small businesses, universities, and  
19 Federal laboratories, shall not apply.

20 (m) Section 41(f)(6) of the Internal Revenue Code, relating to  
21 energy research consortium, shall not apply.

22 SEC. 4. Section 24304 is added to the Revenue and Taxation  
23 Code, to read:

24 24304. For taxable years beginning on or after January 1, 2016,  
25 and before January 1, 2025, any grant received by a taxpayer  
26 pursuant to Division 3 (commencing with Section 70000).

27 SEC. 5. Division 3 (commencing with Section 70000) is added  
28 to the Revenue and Taxation Code, to read:

29

30 DIVISION 3. RESEARCH AND DEVELOPMENT-SMALL  
31 BUSINESS GRANT PROGRAM

32

33 70000. For purposes of this division:

34 (a) (1) Except as provided in paragraph (2), “excess credit  
35 amount” means the amount of credit under Section 17052.12 *or*  
36 *23609* that exceeds the “net tax,” as defined by Section 17039, or  
37 the “tax,” as defined by Section 23036, *as applicable, for the first*  
38 *taxable year the credit is allowable* and may be carried over to  
39 reduce “net tax” or “tax,” as applicable, in the following year.

1 (2) In the case of a pass-thru entity, for credits attributable to  
2 taxable years beginning on or after January 1, 2016, “excess credit  
3 amount” means the amount of credit allowed under Section  
4 17052.12 or ~~Section~~ 23609 to be passed through to partners or  
5 shareholders.

6 (b) “Qualified small business” means a taxpayer that meets all  
7 of the following requirements for the taxable year with respect to  
8 the credit for which a grant is authorized under this division:

9 (1) The taxpayer was allowed a credit under either Section  
10 17052.12 or ~~Section~~ 23609.

11 (2) The taxpayer has gross receipts ~~for the taxable year~~ of five  
12 million dollars (\$5,000,000) or less for the taxable year. For  
13 purposes of this paragraph, “gross receipts” has the same definition  
14 as Section 41(c)(7) of the Internal Revenue Code, relating to gross  
15 receipts, modified to provide that the last sentence shall not apply.

16 (3) (A) The taxpayer is not an affiliated corporation that is  
17 properly treated as a member of a combined reporting group  
18 pursuant to Section 25101 or 25110.

19 (B) Notwithstanding any other provision, no grant may be  
20 awarded pursuant to this division with respect to a credit that may  
21 be assigned pursuant to Section 23663.

22 (4) The taxpayer has been certified by the Governor’s Office  
23 of Business and Economic Development as an eligible qualified  
24 small business for purposes of this division.

25 70001. (a) On or after January 1, 2016, and before January 1,  
26 ~~2025; 2021~~, a qualified small business may apply for ~~and receive~~  
27 a grant as follows:

28 (1) Beginning January 1, 2016, a qualified small business may  
29 apply for and receive a one-time grant in an amount equal to 10  
30 percent of any excess credit amount that is attributable to taxable  
31 years beginning on or after January 1, 2014, and before January  
32 1, 2016, available for carryover into taxable years beginning on  
33 or after January 1, 2016, for credits allowed under Section  
34 17052.12 or 23609.

35 (2) For taxable years beginning on or after January 1, 2016, and  
36 before January 1, ~~2025; 2021~~, a qualified small business may  
37 annually apply for a grant in an amount equal to 15 percent of any  
38 excess credit amount attributable to the taxable year in which the  
39 credit is allowed under Section 17052.12 or 23609.

1 (b) (1) In order to receive a grant under paragraph (1) of  
2 subdivision (a), the qualified small business, partner, or “S”  
3 corporation shareholder of a qualified small business shall be  
4 required to apply for a grant on a timely filed original return filed  
5 with the Franchise Tax Board using electronic technology in a  
6 form and manner prescribed by the Franchise Tax Board for the  
7 taxable year beginning on or after January 1, 2015, ~~and shall apply~~  
8 *by applying* to the Franchise Tax Board for a certificate indicating  
9 the amount equal to 10 percent of the excess credit amount that is  
10 attributable to taxable years beginning on or after January 1, 2014,  
11 and before January 1, 2016, available for carryover into taxable  
12 years beginning on or after January 1, 2016, for a credit allowed  
13 under Section 17052.12 or 23609. The Franchise Tax Board shall  
14 supply the qualified small business with a certificate within 90  
15 days of receiving the application.

16 (2) In order to receive a grant under paragraph (2) of subdivision  
17 (a), the qualified small ~~business, partner, or “S” corporation~~  
18 ~~shareholder, as applicable,~~ *business* shall be required to apply for  
19 a grant on a timely filed original return with the Franchise Tax  
20 Board using electronic technology in a form and manner prescribed  
21 by the Franchise Tax Board for each taxable year beginning on or  
22 after January 1, 2016, ~~and shall apply~~ *by applying* to the Franchise  
23 Tax Board for a certificate indicating the amount equal to 15  
24 percent of the ~~amount that is attributable to the taxable year and~~  
25 ~~available for carryover to the following taxable year in which a~~  
26 ~~credit is allowed under Section 17052.12 or 23609.~~ *excess credit*  
27 *amount that is attributable to the taxable year in which a credit*  
28 *is allowed under Section 17052.12 or 23609, and available for*  
29 *carryover to the following year.* The Franchise Tax Board shall  
30 supply the qualified small business with a certificate within ~~30~~ 90  
31 days of receiving the return.

32 (c) (1) The Franchise Tax Board shall allocate the certified  
33 amounts based on the aggregate applicable amount for the calendar  
34 year in which the certificate is issued.

35 (2) The aggregate applicable amount that may be certified for  
36 the calendar year beginning January 1, 2016, shall be one hundred  
37 million dollars (\$100,000,000), not to exceed fifty million dollars  
38 (\$50,000,000) for each taxable year beginning January 1, 2014,  
39 and January 1, 2015.

1 (3) The aggregate applicable amount shall not exceed fifty  
2 million dollars (\$50,000,000) for each calendar year beginning on  
3 or after January 1, ~~2016~~, 2017, and before January 1, ~~2026~~, 2022,  
4 regardless of the taxable year to which the grant relates.

5 (4) (A) The Franchise Tax Board shall allocate the certificates  
6 to the qualified small business, partners, or “S” corporation  
7 shareholder, as applicable, on a first-come-first-served basis,  
8 determined by the date the taxpayer’s original tax return is received  
9 by the Franchise Tax Board. If the returns of two or more qualified  
10 small businesses are received on the same day and the amount of  
11 credit remaining to be allocated is insufficient to be allocated fully  
12 to each, the credit remaining shall be allocated to those qualified  
13 small businesses on a pro rata basis.

14 (B) For purposes of this paragraph, the date an application or  
15 return is received shall be determined by the Franchise Tax Board.  
16 The determination of the Franchise Tax Board as to the date an  
17 application or return is received and whether an application or  
18 return has been timely filed for purposes of this paragraph may  
19 not be reviewed in any administrative or judicial proceeding.

20 (d) In the case of a qualified small business that is a pass-thru  
21 entity, the following shall apply:

22 (1) (A) For purposes of the credit allowed under Section  
23 17052.12, a “pass-thru entity” means a partnership or an “S”  
24 corporation.

25 (B) For purposes of the credit allowed under Section 23609, a  
26 “pass-thru entity” means a partnership.

27 (2) (A) For grants with respect to taxable years beginning on  
28 or after January 1, 2014, and before January 1, 2016, the Franchise  
29 Tax Board shall issue the certificate to the qualified small business,  
30 partners, or “S” corporation shareholders, as applicable.

31 (B) For grants with respect to taxable years on or after January  
32 1, 2016, the Franchise Tax Board shall issue the certificate to the  
33 partnership or “S” corporation.

34 (3) A certificate shall not be issued to an “S” corporation with  
35 respect to the credit allowed under Section 23609.

36 (e) To the extent the amount of the certificate issued by the  
37 Franchise Tax Board is based on a request from a qualified small  
38 business, partner, or “S” corporation shareholder, as applicable,  
39 any amount of a credit finally allowed that is less than the amount  
40 of the credit that provided the basis for a grant under this division,

1 the amount of the grant attributable to the credit not allowed shall  
2 be treated as a deficiency pursuant to Section 19043, and assessed  
3 and collected pursuant to Part ~~10.2~~ 10.2 (*commencing with Section*  
4 *18401*).

5 (f) The Franchise Tax Board may prescribe rules, guidelines,  
6 or procedures necessary or appropriate to carry out the purposes  
7 of this division, including any guidelines regarding the allocation  
8 of the certificates issued pursuant to this section. Chapter 3.5  
9 (*commencing with Section 11340*) of Part 1 of Division 3 of Title  
10 2 of the Government Code does not apply to any rule, guideline,  
11 or procedure prescribed by the Franchise Tax Board pursuant to  
12 this section.

13 70002. (a) The Controller, upon a receipt of a certificate issued  
14 to a qualified small business, partner, or “S” corporation  
15 shareholder, as applicable, under Section 70001, shall pay the  
16 qualified small business the grant amount indicated upon the  
17 certificate issued to the qualified small business, partner, or “S”  
18 corporation shareholder. Notwithstanding Section 13340 of the  
19 Government Code, the amounts necessary to provide the grants  
20 are hereby continuously appropriated from the General Fund.

21 (b) (1) Notwithstanding Section 10231.5 of the Government  
22 Code, on or before January 1, 2017, and each January 1 thereafter,  
23 the Controller shall provide a report to the Assembly Committee  
24 on Revenue and Taxation including the recipients of the grants for  
25 the previous calendar year and the grant amount each recipient  
26 received.

27 (2) A report submitted pursuant to paragraph (1) shall be  
28 submitted in compliance with Section 9795 of the Government  
29 Code.

30 70003. On and after January 1, 2016, the Governor’s Office  
31 of Business and Economic Development, upon application by a  
32 taxpayer, shall certify the taxpayer as a qualified small business  
33 that meets the requirements of paragraphs (1) to (3), inclusive, of  
34 subdivision (b) of Section 70000 and eligible to receive a grant  
35 pursuant to this division.

36 70004. This division shall remain in effect only until January  
37 1, ~~2026~~, 2022, and as of that date is repealed, unless a later enacted

- 1 statute, that is enacted before January 1, ~~2026~~, 2022, deletes or
- 2 extends that date.

O